BWC/MSP/2014/MX/WP.1

2 July 2014

English only

Meeting of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction

2014 Meeting
Geneva, 1-5 December 2014

Meeting of Experts
Geneva, 4-8 August 2014
Item 8 of the agenda
Biennial item: how to strengthen implementation of Article VII, including consideration of detailed procedures and mechanisms for the provision of assistance and cooperation by States Parties

Making Article VII effective

Submitted by the United Kingdom of Great Britain and Northern Ireland

Introduction

1. In working paper **BWC/CONF.VII/WP.1 Article VII: options for implementation and proposal for intersessional work** presented at the Seventh Review Conference, the United Kingdom outlined some ideas on measures that could be taken to help give practical effect to Article VII. Since the biennial topic commencing in 2014 addresses the strengthening of Article VII, we would like to return to some of the themes raised in our 2011 paper; we believe that these are still relevant and require attention with a view to promoting common understandings and effective action.

Common understandings

2. Under Article VII of the Convention, States Parties undertake **to "provide or support assistance"** in the event that a State Party has been **"exposed to danger"** as a result of a violation of the Convention. Records of the original Convention negotiations from 1968 to 1971 make it clear, that '*assistance*' means essentially that medical or relief assistance would be provided on request. In order to capture this clarification, the United Kingdom recommends that appropriate language is elaborated in a common understanding agreed by the Meeting of States Parties for subsequent incorporation in the Eighth Review Conference Final Declaration Article-by-Article Review section, for example:

> "States Parties reached a common understanding that the term 'assistance' in Article VII of the Convention means medical, or associated relief such as that including expertise, information, protection, detection, decontamination, and other equipment,

GE.14-07238 (E)

1407238

Please recycle

provided on request in the event that a State Party believes it has been exposed to danger as a result of a violation of the Convention."

3. In contrast, neither the negotiating record nor any subsequent Review Conference Final Declaration offers any clarification as to the meaning of the term **"exposed to danger"**. The Chemical Weapons Convention's equivalent of Article VII is Article X paragraph 8. This offers some ideas that could likewise be agreed at the Meeting of States Parties as a common understanding on the circumstances which would meet the criterion of **"exposed to danger"**, for instance, **"exposed to danger"** means circumstances involving the use or threat of use of biological or toxin weapons when:

(a) Biological or toxin weapons have been used or suspected of being used by any State(s) or other entity against a State Party;

(b) A State Party is threatened by actions or activities of any State or other entity that are prohibited for States Parties by Article I.'

Giving effect to Article VII: some practical aspects

4. In the event of an infectious disease outbreak, it is unlikely to be always immediately clear whether it is as a result of a deliberate act, an accidental release or of natural origin. It is quite likely that in the first instance the capabilities of the WHO, OIE or FAO to mobilise responses to outbreaks of infectious disease of international concern will be the principal means of responding to an Article VII - relevant incident. Thus any discussion of the practical aspects of implementing Article VII must consider carefully the extent to which the WHO and the Global Outbreak Alert and Response Network, and other intergovernmental organisations, are best placed as the primary responders, and the extent to which further assistance is required to enhance rather than duplicate their capabilities. Our work here in a BTWC context should therefore be looking to supplement, not supplant these efforts.

5. We need to identify gaps in capabilities and challenges to ensure prompt and effective provision of assistance – points that were clearly noted by the Seventh Review Conference Final Declaration. In order to help address these issues the United Kingdom believes that it would be useful to break the problem down into three component parts:

(a) What could and should a State Party do nationally to deal with a threat or actual use of biological or toxin weapons, including identification of advice on actions and procedures that it should adopt for its own first responder capabilities?

(b) How do we determine the sorts of assistance that would be required from States Parties and international organisations and who could provide it?

(c) What are the challenges to providing that advice in order to expedite the necessary assistance and how do we address these most effectively?

What could and should a State Party do nationally?

6. The first line of defence against the hostile use, or threat of use, of biological agents is the existence and maintenance of a national capability for effective surveillance, detection and diagnosis of, and response to, infectious disease outbreaks whatever their origin. It is for this reason that national, regional and international efforts relevant to Article X seeking to improve further national and regional capabilities for infectious disease control will also help make Article VII more effective. It therefore makes sense to keep both Articles in mind as we work through the issues affecting responses to the use of biological and toxin weapons. Thus the continuing efforts on implementation of the International Health Regulations (IHR) are of relevance, in particular the need to strengthen

national disease prevention, surveillance, control and response systems. These are critical for the sustained reduction and management of public health threats in countries and for the prevention of international spread to others.[1] Building and sustaining a national capacity requires effective coordination and integration of cross-governmental planning and response as the skills, expertise and knowledge required are highly unlikely to reside in a single government ministry or agency.

7. The earlier an event is detected and characterised, the easier it will be to contain and manage the effects and consequences. We should therefore concentrate efforts on identifying the actions, and possible assistance, that will help build and sustain the capacities needed to address these objectives. The development of an effective detection capability is an exceptionally challenging task and there is no single universal solution. Relevant capabilities include:

- Development and availability of reliable and affordable wide area detection capabilities, in combination with disease and syndrome reporting through health monitoring that could alert authorities to a biological event.
- Primed and sustained vigilance in the clinical and veterinary communities to spot and report the signs of high-impact disease outbreaks.[2]
- Development of cost-effective rapid diagnostics tests.
- Availability of accurate mapping to help pinpoint the source or sources of the outbreak.[3]

8. Preparation is of vital importance in mitigating the impact of a biological incident, as well as a coordinated, equipped and trained multi-agency operational response; this includes ensuring the availability of appropriate countermeasures and recovery and decontamination options. The United Kingdom's overall approach to dealing with the consequences of a BW attack was outlined in a working paper submitted to the 2010 Meeting of Experts.[4] Some practical guidance for first responders is outlined in a United Kingdom working paper submitted to this meeting, which addresses the command and control aspects of an initial response to an identifiable biological incident on the territory of a State Party.

How do we determine the sorts of assistance that would be required and who could provide it?

9. Much depends on each State Party's current capabilities and capacities and the nature of the event that has resulted in its being **"exposed to danger"**. For this reason it is not feasible to compile a comprehensive, **"one-size fits all"**, detailed list of requirements. This highlights the need for States Parties to complete a prior evaluation and assessment of national capabilities and a gap analysis, and to develop and implement national action plans to prevent, detect, and respond to threats, taking into account the most likely events. Regular training activities will also strengthen national capacities for disease prevention,

---

[1] WHO/CDS/EPR/IHR/2007.1, WHO, International Health Regulations (2005) Areas of Work for implementation, June 2007 pages 19-20: http://apps.who.int/iris/bitstream/10665/69770/1/WHO_CDS_EPR_IHR_2007.1_eng.pdf?ua=1

[2] Outbreaks that cause large numbers of fatalities and casualties with consequent significant and prolonged adverse economic and societal effects.

[3] See for example, Hal Hodson, Mapping in a crisis, New Scientist, 12 April 2014 page 19.

[4] BWC/MSP/2010/MX/WP.7 'United Kingdom activities and capabilities for responding to a biological weapons attack'.

surveillance, risk assessment, control and response.[5] The WHO offers assistance to its member states on such activities. The OIE's Performance of Veterinary Services (PVS) Pathway, including an evaluation tool and gap analysis missions, and its laboratory twinning concept are also relevant here in building comparable capabilities to deal with outbreaks of animal disease. Similarly, the International Plant Protection Convention (IPPC) provides a web-based Phytosanitary Capacity Evaluation Tool (PCE) to help countries identify strengths and gaps in national measures to control plant disease.

10. The European Union also provides assistance on preparedness for and mitigation of biological risks, whether of an intentional, accidental or natural origin, through its CBRN Centres of Excellence initiative. This includes a needs assessment process, using a specifically developed questionnaire and software tool, which aims to help national teams from across different government departments identify existing national expertise and capacity, what further capacity building is required, and where opportunities for cooperation exist. It also helps identify areas where countries have the potential to offer assistance and share practices with others in the region.[6] Requests and offers for training and support in the context of Article VII-related assistance could also be made through the BTWC's assistance and cooperation database, but as ever it is essential not to duplicate or confuse efforts.

11. Notwithstanding the need for case-by-case assessment, it is possible to identify some generic categories of assistance, including the provision of training and operational and technical support as well as financial assistance. Such aspects were most recently highlighted as pressing requirements by the WHO in seeking emergency financial and technical support in March and April 2014 to help contain the outbreak of Ebola in West Africa, which has since continued to spread.[7] And although these assistance requests were clearly for responding to a natural outbreak of infectious disease, the same essential capabilities are also required for responses to the use of biological or toxin weapons. Thus assistance could be crucial in creating and supporting a range of capabilities, for example:

- Well-trained, well-equipped and organised first responders, who know how to recognise, tackle and deal with a suspicious outbreak of disease or apparent or actual release of biological agents or toxins, and with clear chains of command capable of acting decisively and quickly when deployed to the field.
- An ability to integrate international assistance promptly and seamlessly into national operations, including fast-tracking of medicines for use in emergencies.
- A sensitive surveillance and alert system to verify rumours rapidly, follow-up actively on new suspect cases, and ensure daily follow-up of cases and contacts.
- Trained health and community workers able to detect, notify and manage suspected and confirmed cases.
- Adequate infection prevention and control practices in all health care settings in affected districts, and at-risk areas, and standard precautions in place in the rest of the country.

---

[5] WHO/CDS/EPR/IHR/2007.1, page 19.

[6] http://www.cbrn-coe.eu/Portals/0/cbrn-coe-public-documents/Newsletter%20Volume%208%20(April%202014)%20in%20EN.pdf

[7] See World Health Organisation Donor Appeal, *WHO Request For Emergency Funds, Ebola Virus Disease Outbreak Response*, 27 March 2014 and 10 April 2014; and http://www.bbc.co.uk/news/health-28033027.

- Availability of rapid diagnostic kits, field laboratories, medical countermeasures, decontaminants and decontamination procedures.
- Support for field laboratory capacity, appropriate sample shipment, and reference laboratory capacity.
- Provision of field logistic support and equipment for outbreak response operations.
- Coordination of field activities and partner support at local, provincial and national level.

What are the challenges to providing that advice in order to expedite the necessary assistance and how do we address these most effectively?

12. The United States set out very clearly a range of challenges in the path of making Article VII effective in a Working Paper to the 2013 Meeting of Experts.[8] These are characterised as a combination of legal, regulatory and logistical issues impeding the ability of governments to both provide and receive international assistance during public health emergencies all of which require attention to overcome. The United States of America identified some general considerations for the international deployment and receipt of medical countermeasures or public health and medical personnel in response to an international health emergency:

- Recognition or waiver of medical credentials, licences, and professional certifications of personnel by the recipient country.
- Liability protections for medical providers or those who manufacture, distribute or administer medical countermeasures.
- Regulatory clearance to import and/or use medical products in a host country.
- Mission funding.

13. Remedial actions to address such issues are required primarily at the national level and could, where useful or necessary, be codified in bilateral agreements between States Parties and/or relevant international organisations such as the WHO, and the OIE and FAO for responses to animal and plant diseases. Care would be needed to ensure that these supplement such organisations' current capabilities. The United Kingdom recommends that, in the output from this biennial topic, States Parties agree a common understanding that these challenges should be expressly recognised and that effective action by States Parties at the national level is needed to address them. States Parties might also be encouraged to report on actions taken.

CWC Article X: a possible model?

14. The UK Seventh Review Conference Working Paper on Article VII raised the example set by the Chemical Weapons Convention's Article X. It is clear that the ISU as currently constituted cannot act as a conduit for emergency assistance – it simply does not have the staff or facilities to manage and distribute protective equipment, decontaminants and medical countermeasures in a manner comparable to the role envisaged for the Technical Secretariat in the CWC's Article X (7). However, the ISU could conceivably administer a voluntary fund for assistance similar to the one created by the CWC's Article X. The ISU could perhaps also maintain a separate register of States Parties able

[8] BWC/MSP/2013/MX/WP.6.

and willing to offer assistance, and the type of assistance they can provide, as part of the assistance and cooperation database established by the Seventh Review Conference.

15. The UK believes that States Parties could act upon this suggestion now without having to wait for an affirmative decision at the Eighth Review Conference in 2016. Indeed, the assistance and cooperation database currently includes some relevant offers of assistance. At the very least, States Parties could come prepared to the Conference to report on what sorts of assistance directly relevant to making Article VII effective could be offered. These could then be added to the database.

16. We might also consider adapting another of the CWC Article X provisions.[9] This means drawing on paragraph 6 to the effect that we might note that, notwithstanding Article VII, States Parties could be encouraged to conclude individual agreements with other States Parties concerning the emergency procurement of assistance.

17. However, if using CWC provisions as a model, we would need to take account of a particular difference – that here is no natural occurrence of CW effects (in the way there are natural disease outbreaks difficult to distinguish from a BW attack). For this reason CWC provisions do not have to take into account existing international organisations and networks dealing with the effects of chemical weapons.

Conclusions

18. The challenges in creating an effective global infrastructure to give better effect to the intentions behind Article VII are considerable. Time and sustained effort are required across a very broad range of activities at the national, regional and international level. A further challenge is to ensure that these efforts are integrated and not at cross-purposes with those of other organisations. However, the work undertaken by the WHO and its member states to implement fully the International Health Regulations, by the OIE in its PVS Pathway and laboratory twinning programme, and by the IPPC in support to capacity development, helps to build effective defences against the use of biological agents and toxins for hostile purposes. This is why it is so essential to keep in mind the organic link between cooperation and assistance measures taken under Article X as these help give substance to effective response and mitigation capabilities under Article VII.

---

[9] This was the route taken by the 2001 draft BTWC Protocol.